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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/806,830

03/23/2004

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81233 7114

4246

37123 7590 11/09/2009
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EXAMINER

TAYLOR, JOSHUA D

ART UNIT

PAPER NUMBER

2426

MAIL DATE

DELIVERY MODE

11/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/806,830	Applicant(s) NISHIKAWA ET AL.	
	Examiner JOSHUA TAYLOR	Art Unit 2426	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,8-12,15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,8-12,15 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/13/2009, 6/26/2009, 9/23/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This Office Action is in response to a Response entered June 26, 2009 for the patent application 10/806,830 filed on March 23, 2004.
2. The Office Action of April 2, 2009 is fully incorporated into this Final Office Action by reference.

Status of Claims

3. Claims 1-2, 8-12 and 15-16 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 8-12 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. (Pub. No.: US 2004/0117831) in view of Robarts et al (Pub. No.: US 2005/0278741), and further in view of Hassell et al. (Pub. No.: US 2004/0107439) and Westberg (Pub. No.: US 2005/0102696).

Examiner's Note (EN): ¶10. below applies.

Regarding claim 1, Ellis discloses **a method of using an interactive program guide by at least one user on a given audio/visual device (Fig. 1A), comprising the steps of: providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable audio/visual programs (Fig. 31, paragraph [0128], lines 5-13); displaying an interactive program guide comprising at least one of the characterizing descriptors as corresponds to a particular one of the discrete selectable audio/visual programs (Fig. 31).** However, Ellis does not disclose the following, which Robarts does: **detecting preliminary selection of a particular one of the discrete selectable audio/visual programs to provide a preliminarily selected audio/visual program (Robarts, Fig. 6, element 186); when a user selects the preliminarily selected audio/visual program, automatically taking a first predetermined action with respect to the preliminarily selected audio/visual program (Robarts, Fig. 6, element 200, paragraph [0075], lines 8-10); when a user preliminarily selects a different one of the plurality of discrete selectable audio/visual program, automatically taking a second predetermined action with respect to the preliminarily selected audio/visual program, which second predetermined action is different than the first predetermined action (Robarts, Fig. 6, element 186, paragraph [0072], lines 6-9. Element 186 is used to highlight a preliminarily selected program, so if the user were to select a different program, element 186 would move to highlight said different program); when a user takes an action with respect to the preliminarily selected audio/visual program, which action does not comprise either selecting the preliminarily selected audio/visual program or preliminarily selecting a different audio/visual program, automatically taking a third predetermined action with respect to the preliminarily selected audio/visual program,**

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which third predetermined action is different than the first and the second predetermined action (Robarts, Fig. 6, element 202, paragraph [0077], lines 9-11), **wherein the step of automatically taking a first predetermined action comprises adding information regarding the preliminarily selected audio/visual program to a list of preferred items** (Robarts, Fig. 6, element 200, paragraph [0075], lines 8-10), **wherein the step of automatically taking a second predetermined action comprises moving an area of visual focus away from the preliminarily selected audio/visual program** (Robarts, Fig. 6, element 186, paragraph [0072], lines 6-9. Element 186 is used to highlight a preliminarily selected program, so if the user were to select a different program, element 186 would move to highlight said different program), **and wherein the step of automatically taking a third predetermined action comprises displaying the list of preferred items** (Robarts, Fig. 6, element 202, paragraph [0077], lines 9-11). Ellis discloses an interactive program guide which allows the user to add many elements of a television program to a favorites list. However, Ellis does not disclose the user adding a particular television program to a list of favorites. Robarts discloses enabling a viewer to add a program to a predefined list of favorites (paragraph [0075], lines 8-10) in order for the user later to be able to quickly access a list programs previously identified as favorites (Robarts, paragraph [0077], lines 9-11). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used the program favorites list in the interactive program guide of Ellis. Allowing the user to access programs added to a list of favorites would have been highly desirable in the art, as it would provide another method for the user to organize their preferences.

The combined teaching of Ellis and Robarts does not disclose **providing a plurality of cascading filters for facilitating determination of a particular one of the discrete selectable**

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audio/visual programs, the plurality of cascading filters being customizable for each at least one user, nor does it disclose **wherein the plurality of discrete selectable audio/visual programs are embodied in a plurality of media, wherein the plurality of cascading filters simultaneously considers content across the plurality of media.** However, in analogous art, Hassell discloses that windows can be displayed in a cascading fashion (Figs. 18A and 18B, paragraph [0118]), as well as disclosing that the content in the cascading windows may be retrieved from a plurality of different feeds that are interspersed among a plurality of analog carriers (Fig. 24, paragraph [0128]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ellis and Robarts to include cascading filters considering content across a plurality of media. This would have produced predictable and desirable results, as it would allow the user to compare all content from all viewing sources in order to select the program most desirable to the user, and to do so in a manner that was aesthetically pleasing and understandable.

Neither Ellis, Robarts nor Hassell disclose **automatically adding information corresponding to a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time.** However, in analogous art Westberg discloses monitoring a user's activity by seeing if a user watches a program for more than a predetermined amount of time (i.e. is inactive in terms of scanning through channels), and if the user does, marking that television program as a potential program of interest (paragraphs [0091]-[0092]). Therefore, it

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would have been obvious to one of ordinary skill in the art at the time of the invention to allow for the program guide to update a list of preferred items based on a user's inactivity, i.e. if the area of visual focus does not move for greater than a predetermined length of time. This would have produced predictable and desirable results, as it would allow the system to use more available information in order to update the users list of preferred items.

Regarding claim 2, the combined teachings as stated above disclose **the method of claim 1**, and Ellis further discloses **wherein the characterizing descriptors as individually correspond to a plurality of discrete selectable audio/visual programs comprise at least one of: a programming network identifier** (Fig. 31, paragraph [0128], line 8); **a broadcast starting time** (Figs. 6 and 7, paragraph [0128], lines 7-8); **a description of audio/visual content as corresponds to the audio/visual program** (Fig. 7, element 155, paragraph [0128], lines 10-13); **audio/visual program media source** (Figs. 6 and 7, paragraph [0128], lines 8-10).

Regarding claim 8, the combined teachings as stated above disclose **the method of claim 1**, and Robarts further discloses **wherein detecting preliminary selection of a particular one of the discrete selectable audio/visual programs further comprises detecting at least a predetermined relationship between a present position of one of the characterizing descriptors as corresponds to the particular one of the discrete selectable audio/visual programs and an area of visual focus** (Fig. 6, element 186, paragraph [0072], lines 6-9). This claim is rejected on the same grounds as claim 1.

Regarding claim 9, the combined teachings as stated above disclose **the method of claim 1**, and Robarts discloses **further comprising determining when the user selects the**

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preliminarily selected audio/visual program by detecting when the user asserts a selection action at a time when a characterizing descriptor as corresponds to the preliminarily selected audio/visual program occupies, at least in part, a same portion of a display as a predetermined area of visual focus (Fig. 6, elements 186 and 200, paragraph [0075], lines 8-10). This claim is rejected on the same grounds as claim 1.

Regarding claim 10, Ellis discloses: **a method to facilitate provision of an interactive programming guide, comprising the steps of: providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of audio/visual content** (Ellis, Fig. 31, paragraph [0128], lines 5-13); **displaying an interactive programming guide comprising at least one of the characterizing descriptors** (Ellis, Fig. 31, paragraph [0128], lines 5-13). However, Ellis does not disclose the following, which Robarts does: **providing an updatable list of preferred items of audio/visual content** (Robarts, Fig. 6, element 202, paragraph [0077], lines 9-11); **providing an area of visual focus on a particular displayed one of the characterizing descriptors** (Robarts, Fig. 6, element 186, paragraph [0072], lines 6-9); **in response to a first signal, adding information regarding the discrete selectable item of audio/visual content as corresponds to the particular displayed one of the characterizing descriptors as is presently in the area of visual focus to the updatable list of preferred items of audio/visual content** (Robarts, Fig. 6, element 200, paragraph [0075], lines 8-10); **in response to a second signal that is different from the first signal, moving the area of visual focus to a different one of the characterizing descriptors** (Robarts, Fig. 6, element 186, paragraph [0072], lines 6-9. Element 186 is used to highlight a preliminarily selected program, so if the user were to select a different program, element 186 would move to highlight said

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different program); **in response to a third signal that is different from both the first signal and the second signal, displaying the updatable list of preferred items of audio/visual content** (Robarts, Fig. 6, element 202, paragraph [0077], lines 9-11). Ellis discloses an interactive program guide which allows the user to add many elements of a television program to a favorites list. However, Ellis does not disclose the user adding a particular television program to a list of favorites. Robarts discloses enabling a viewer to add a program to a predefined list of favorites (paragraph [0075], lines 8-10) in order for the user later to be able to quickly access a list programs previously identified as favorites (Robarts, paragraph [0077], lines 9-11). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used the program favorites list in the interactive program guide of Ellis. Allowing the user to access programs added to a list of favorites would have been highly desirable in the art, as it would provide another method for the user to organize their preferences.

The combined teaching of Ellis and Robarts does not disclose **providing a plurality of cascading filters for facilitating determination of a particular one of the discrete selectable audio/visual programs, the plurality of cascading filters being customizable for each at least one user**, nor does it disclose **wherein the plurality of discrete selectable audio/visual programs are embodied in a plurality of media, wherein the plurality of cascading filters simultaneously considers content across the plurality of media**. However, in analogous art, Hassell discloses that windows can be displayed in a cascading fashion (Figs. 18A and 18B, paragraph [0118]), as well as disclosing that the content in the cascading windows may be retrieved from a plurality of different feeds that are interspersed among a plurality of analog carriers (Fig. 24, paragraph [0128]). Therefore, it would have been obvious to one of ordinary

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skill in the art at the time of the invention to modify Ellis and Robarts to include cascading filters considering content across a plurality of media. This would have produced predictable and desirable results, as it would allow the user to compare all content from all viewing sources in order to select the program most desirable to the user, and to do so in a manner that was aesthetically pleasing and understandable.

Neither Ellis, Robarts nor Hassell disclose **automatically adding information corresponding to a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time.** However, in analogous art Westberg discloses monitoring a user's activity by seeing if a user watches a program for more than a predetermined amount of time (i.e. is inactive in terms of scanning through channels), and if the user does, marking that television program as a potential program of interest (paragraphs [0091]-[0092]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow for the program guide to update a list of preferred items based on a user's inactivity, i.e. if the area of visual focus does not move for greater than a predetermined length of time. This would have produced predictable and desirable results, as it would allow the system to use more available information in order to update the users list of preferred items.

Regarding claim 11, the combined teachings as stated above disclose **the method of claim 10**, and Robarts further discloses **wherein the response to the third signal further comprises not displaying characterizing descriptors as correspond to items of audio/visual**

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content that are not on the list of preferred items of audio/visual content (Fig. 13, paragraph [0095], lines 1-14). This claim is rejected on the same grounds as claim 10.

Regarding claim 12, the combined teachings as stated above disclose **the method of claim 10**, and Robarts discloses **further comprising: receiving at least one of the first signal, the second signal, and the third signal from a remote control device** (paragraph [0044], lines 4-8). This claim is rejected on the same grounds as claim 10.

Regarding claim 15, Ellis discloses **a method to facilitate use of an interactive program guide, comprising the steps of: providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable audio/visual programs** (Ellis, Fig. 31, paragraph [0128], lines 5-13); **displaying an interactive program guide comprising at least one of the characterizing descriptors as corresponds to a particular one of the discrete selectable audio/visual programs** (Ellis, Fig. 31, paragraph [0128], lines 5-13). However, Ellis does not disclose the following, which Robarts does: **detecting preliminary selection of a particular one of the discrete selectable audio/visual programs to provide a preliminarily selected audio/visual program** (Robarts, Fig. 6, element 186); **determining when the user selects the preliminarily selected audio/visual program by detecting when the user asserts a selection action at a time when a characterizing descriptor as corresponds to the preliminarily selected audio/visual program occupies, at least in part, a same portion of a display as a predetermined area of visual focus** (Robarts, Fig. 6, elements 186 and 200, paragraph [0075], lines 8-10. The location of element 186 determines the program that is added to the favorites list); **when a user selects the preliminarily selected audio/visual program, automatically taking a first predetermined action with respect to the preliminarily selected**

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audio/visual program (Robarts, Fig. 6, element 200, paragraph [0075], lines 8-10); when a user preliminarily selects a different one of the plurality of discrete selectable audio/visual program, automatically taking a second predetermined action with respect to the preliminarily selected audio/visual program, which second predetermined action is different than the first predetermined action (Robarts, Fig. 6, element 186, paragraph [0072], lines 6-9. Element 186 is used to highlight a preliminarily selected program, so if the user were to select a different program, element 186 would move to highlight said different program); when a user takes an action with respect to the preliminarily selected audio/visual program, the action not comprising either selecting the preliminarily selected audio/visual program or preliminarily selecting a different audio/visual program, automatically taking a third predetermined action with respect to the preliminarily selected audio/visual program, which third predetermined action is different than the first and the second predetermined action (Robarts, Fig. 6, element 202, paragraph [0077], lines 9-11), wherein the characterizing descriptors as individually correspond to a plurality of discrete selectable audio/visual programs comprise at least one element selected from a group consisting essentially of a programming network identifier, a broadcast starting time, a description of audio/visual content as corresponds to the audio/visual program, and an audio/visual program media source (Robarts, Fig. 6, paragraphs [0068]-[0069]), wherein the step of automatically taking a first predetermined action comprises adding information regarding the preliminarily selected audio/visual program to a list of preferred items (Robarts, Fig. 6, element 200, paragraph [0075], lines 8-10), wherein the step of automatically taking a second predetermined action comprises moving an area of visual focus away from the

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preliminarily selected audio/visual program (Robarts, Fig. 6, element 186, paragraph [0072], lines 6-9. Element 186 is used to highlight a preliminarily selected program, so if the user were to select a different program, element 186 would move to highlight said different program), **wherein the step of automatically taking a third predetermined action comprises displaying the list of preferred items** (Robarts, Fig. 6, element 202, paragraph [0077], lines 9-11), **and wherein the step of detecting preliminary selection of a particular one of the discrete selectable audio/visual programs further comprises detecting at least a predetermined relationship between a present position of one of the characterizing descriptors as corresponds to the particular one of the discrete selectable audio/visual programs and an area of visual focus** (Robarts, Fig. 6, elements 186 and 200, paragraph [0075], lines 8-10. The location of element 186 determines the program that is added to the favorites list). Ellis discloses an interactive program guide which allows the user to add many elements of a television program to a favorites list. However, Ellis does not disclose the user adding a particular television program to a list of favorites. Robarts discloses enabling a viewer to add a program to a predefined list of favorites (paragraph [0075], lines 8-10) in order for the user later to be able to quickly access a list programs previously identified as favorites (Robarts, paragraph [0077], lines 9-11). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used the program favorites list in the interactive program guide of Ellis. Allowing the user to access programs added to a list of favorites would have been highly desirable in the art, as it would provide another method for the user to organize their preferences.

The combined teaching of Ellis and Robarts does not disclose **providing a plurality of cascading filters for facilitating determination of a particular one of the discrete selectable**

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audio/visual programs, the plurality of cascading filters being customizable for each at least one user, nor does it disclose **wherein the plurality of discrete selectable audio/visual programs are embodied in a plurality of media, wherein the plurality of cascading filters simultaneously considers content across the plurality of media.** However, in analogous art, Hassell discloses that windows can be displayed in a cascading fashion (Figs. 18A and 18B, paragraph [0118]), as well as disclosing that the content in the cascading windows may be retrieved from a plurality of different feeds that are interspersed among a plurality of analog carriers (Fig. 24, paragraph [0128]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ellis and Robarts to include cascading filters considering content across a plurality of media. This would have produced predictable and desirable results, as it would allow the user to compare all content from all viewing sources in order to select the program most desirable to the user, and to do so in a manner that was aesthetically pleasing and understandable.

Neither Ellis, Robarts nor Hassell disclose **automatically adding information corresponding to a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time.** However, in analogous art Westberg discloses monitoring a user's activity by seeing if a user watches a program for more than a predetermined amount of time (i.e. is inactive in terms of scanning through channels), and if the user does, marking that television program as a potential program of interest (paragraphs [0091]-[0092]). Therefore, it

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would have been obvious to one of ordinary skill in the art at the time of the invention to allow for the program guide to update a list of preferred items based on a user's inactivity, i.e. if the area of visual focus does not move for greater than a predetermined length of time. This would have produced predictable and desirable results, as it would allow the system to use more available information in order to update the users list of preferred items.

Regarding claim 16, Ellis discloses **a method to facilitate provision of an interactive programming guide, comprising: providing access to characterizing descriptors as individually correspond to a plurality of discrete selectable items of audio/visual content** (Ellis, Fig. 31, paragraph [0128], lines 5-13); **displaying an interactive programming guide comprising at least one of the characterizing descriptors** (Ellis, Fig. 31). However, Ellis does not disclose the following, which Robarts does: **providing an updatable list of preferred items of audio/visual content** (paragraph [0077]); **providing an area of visual focus on a particular displayed one of the characterizing descriptors** (Robarts, Fig. 6, element 186); **in response to a first signal, adding information regarding the discrete selectable item of audio/visual content as corresponds to the particular displayed one of the characterizing descriptors as is presently in the area of visual focus to the updatable list of preferred items of audio/visual content** (Robarts, Fig. 6, element 200, paragraph [0075], lines 8-10); **in response to a second signal that is different from the first signal, moving the area of visual focus to a different one of the characterizing descriptors** (Robarts, Fig. 6, element 186, paragraph [0072], lines 6-9. Element 186 is used to highlight a preliminarily selected program, so if the user were to select a different program, element 186 would move to highlight said different program); **in response to a third signal that is different from both the first signal and the**

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second signal, displaying the updatable list of preferred items of audio/visual content

(Robarts, Fig. 6, element 202, paragraph [0077], lines 9-11), **receiving at least one of the first signal, the second signal, and the third signal from a remote control device** (Robarts, paragraph [0044], lines 4-8), **wherein the response to the third signal further comprises not displaying characterizing descriptors as correspond to items of audio/visual content that are not on the list of preferred items of audio/visual content** (Robarts, Fig. 13, paragraph [0095], lines 1-14). Ellis discloses an interactive program guide which allows the user to add many elements of a television program to a favorites list. However, Ellis does not disclose the user adding a particular television program to a list of favorites. Robarts discloses enabling a viewer to add a program to a predefined list of favorites (paragraph [0075], lines 8-10) in order for the user later to be able to quickly access a list programs previously identified as favorites (Robarts, paragraph [0077], lines 9-11). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used the program favorites list in the interactive program guide of Ellis. Allowing the user to access programs added to a list of favorites would have been highly desirable in the art, as it would provide another method for the user to organize their preferences.

However, the combined teaching of Ellis and Robarts does not disclose **providing a plurality of cascading filters for facilitating determination of a particular one of the discrete selectable audio/visual programs, the plurality of cascading filters being customizable for each at least one user, nor does it disclose wherein the plurality of discrete selectable audio/visual programs are embodied in a plurality of media, wherein the plurality of cascading filters simultaneously considers content across the plurality of media.**

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However, in analogous art, Hassell discloses that windows can be displayed in a cascading fashion (Figs. 18A and 18B, paragraph [0118]), as well as disclosing that the content in the cascading windows may be retrieved from a plurality of different feeds that are interspersed among a plurality of analog carriers (Fig. 24, paragraph [0128]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ellis and Robarts to include cascading filters considering content across a plurality of media. This would have produced predictable and desirable results, as it would allow the user to compare all content from all viewing sources in order to select the program most desirable to the user, and to do so in a manner that was aesthetically pleasing and understandable.

Neither Ellis, Robarts nor Hassell disclose **automatically adding information corresponding to a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time.** However, in analogous art Westberg discloses monitoring a user's activity by seeing if a user watches a program for more than a predetermined amount of time (i.e. is inactive in terms of scanning through channels), and if the user does, marking that television program as a potential program of interest (paragraphs [0091]-[0092]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow for the program guide to update a list of preferred items based on a user's inactivity, i.e. if the area of visual focus does not move for greater than a predetermined length of time. This would

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have produced predictable and desirable results, as it would allow the system to use more available information in order to update the users list of preferred items.

Response to Arguments

5. Applicant's arguments, see page 10, filed June 26, 2009, with respect to the **35 USC § 112** rejection have been fully considered and are persuasive. The **35 USC § 112** rejection of claims 1-2, 8-12 and 15-16 has been withdrawn.

However, for the record, Examiner notes that throughout the priority document and the documents incorporated by reference into the instant application, the term "cascading filters" is found one time, in the following context: "The system consists of cascading filters that can filter out and in TV shows based on their attributes (e.g. categories/genres, time shown, media types, etc.) (U.S. Provisional Application Serial No. 60/520,752, p. 3, ¶ 4.)." There is no other mention or definition of the term "cascading filters" anywhere else in the related documents.

Further, the Exhibits A and B, presented to Examiner in Applicant's Remarks filed on June 26, 2009, were published and/or downloaded well after the effective filing date of the instant application (circa. 2008 or 2009 vs. November 17, 2003, respectively).

First, if these documents were intended to clarify for Examiner the meaning and/or use of "cascading filters" in the art, Examiner does not agree that said Exhibits are relevant art, and further does not see the relevance in Applicant's argument on page 13, lines 3-15 of the response, in which Applicant contrasts the "cascading filters" as represented by Exhibits A and B

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with the “cascading windows” of Hassell. The Exhibits with which Applicant has presented Examiner refer to definitions of digital filters, which generally take a discrete-time *signal* and reduce or enhance certain aspects of that signal (emphasis added), and give examples such as a second-order lowpass filter with a specific *cut-off frequency* (emphasis added). These Exhibits are referring to non-analogous art, as the instant Application has to do with filtering television programs based on actors or genres, for example, and are software filters, and do not relate to filtering frequencies out of digital signals, such as in a hardware filter.

Second, these Exhibits cannot expand the meaning of the term “cascading filters” in relation to Applicant’s claims, as they do nothing to show what one of ordinary skill in the art at the time of the invention would have known of “cascading filters,” as they are not of the time of the invention.

Third, assuming, *arguendo*, that documents exist at the time of the invention that could corroborate Applicant’s expanded definition of the term “cascading filters,” such documents would still be useless in furthering Applicant’s case, because Applicant’s disclosure, in its entirety, does not explain how the use of cascading filters improves the claimed invention over the state of the art at the time of the invention. Thus, any document that did so could simply be used as prior art to reject Applicant’s claims.

Last, Examiner notes that by Applicant's own admission, on page 10, lines 26-27, “[t]he presently claimed “plurality of cascading filters [phrase A]” is synonymous with “the plurality of characterizing descriptor filters [phrase B],” and thus any future Office Actions may read phrase A as being synonymous with phrase B, or vice versa.

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Thus, although the *35 USC § 112* rejection is being withdrawn, in the instant and any future Office Actions, Examiner is reading the term "cascading filters" in the broadest reasonable sense, as per ¶10. below.

6. Applicant's arguments filed June 26, 2009 have been fully considered but they are not persuasive.

In reference to Applicant's argument:

Regarding the cited art, the Examiner concedes that "It]he combined teaching of Ellis and Robarts does not disclose providing a plurality of cascading filters for facilitating determination of a particular one of the discrete selectable audio/visual programs, the plurality of cascading filters being customizable for each at least one user, nor does it disclose wherein the plurality of discrete selectable audio/visual programs are embodied in a plurality of media, wherein the plurality of cascading filters simultaneously considers content across the plurality of media." The Examiner relies on Hassell for assertedly disclosing "that *windows can* be displayed in a *cascading fashion* (Figs 18A and 18B, paragraph [0118])" and "that the content in the *cascading windows* may be retrieved from a plurality of different feeds that are interspersed among a plurality of analog carders (Fig. 24, paragraph [0128])."

Indeed, Hassell discloses a plurality of windows that are displayed in a *cascading fashion* (Figs 18A and 18B; paragraphs [0038], [0039], and [0118]); however, the Applicants respectfully submit that *cascading windows* are not tantamount to *cascading filters*, albeit the terminology may seem similar on first glance. *Cascading filters* are actually an entirely different animal. They are not merely the windows that appear on a display screen. Rather, they are the electronic components that are disposed in a specific type of circuit arrangement. The circuit arrangement is what is "cascaded." An example of such a filter is a cascaded series of second-order biquadratic sections for limiting the filter coefficient range, because the delay elements of the input of any section, other than the first section, are redundant in relation to the delay elements of the output of any preceding section (See Exhibit A).¹ Typically, cascading filters are generally repeating filters connected in a cascade configuration. Typical cascade systems are of a higher order, e.g., having a longer or finite impulse response (See Exhibit B).² Thus, the presently claimed *cascading filters* bear no relation whatsoever to Hassell's *cascading windows*.

In contrast to the cited art, the present invention methods each involve the following salient features, *inter alia*: "providing a plurality of *cascading filters* for facilitating determination of a particular one of the discrete selectable audio/visual programs, the plurality of *cascading filters* being customizable for each at least one user[.]" "wherein the plurality of *cascading filters* simultaneously considers content across the plurality of media," and "automatically adding information corresponding to a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than

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a predetermined length of time[.]” Nowhere in the cited art can any teaching, suggestion, motivation, or other obviation be found for combining the following claimed features: “providing a plurality of *cascading filters* for facilitating determination of a particular one of the discrete selectable audio/visual programs, the plurality of *cascading filters* being customizable for each at least one user[.]” “wherein the plurality of *cascading filters* simultaneously considers content across the plurality of media,” and “automatically adding information corresponding to” a particular one of the plurality of discrete selectable items of audio/visual content to the updatable list of preferred items of audio/visual content when the area of visual focus is on a characterizing “descriptor as corresponds to the particular one of the plurality of discrete selectable items of audio/visual content for greater than a predetermined length of time[.]” [emphasis added]

Examiner’s Response:

As discussed above in relation to the *35 USC § 112* rejection, Examiner has full latitude to interpret each claim in the broadest reasonable sense, and further, Examiner finds no support anywhere in Applicant's disclosure to narrow the definition of Examiner's reading of the term “cascading filters” in the instant rejection.

Further, it is noted that the features upon which applicant relies (i.e., a more specific definition of the term “cascading filter”) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Thus, in maintaining the rejection, Examiner is reading “cascading filters” to be the cascading windows of Hassell, all of which are showing filtered content.

Examination Considerations

7. The claims and only the claims form the metes and bounds of the invention. “Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997).

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Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)” (MPEP p 2100-8, c 2, l 45-48; p 2100-9, c 1, l 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

8. Examiner’s Notes are provided with the cited references to prior art to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner’s Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

9. Unless otherwise annotated, Examiner’s statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent prima facie statement.

10. Examiner’s Opinion: ¶¶ 7.-9. apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA TAYLOR whose telephone number is (571) 270-3755. The examiner can normally be reached on 8am-5pm, M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Josh Taylor/
Examiner, Art Unit 2426

/Joseph P. Hirl/
Supervisory Patent Examiner, Art Unit 2426
November 3, 2009